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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/849,240 | 05/07/2001 | Matthew B. Studholme | T2316-907194 | 8050 |

7590

10/18/2002

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EXAMINER

HAMPTON HIGHTOWER, PATRICIA

ART UNIT

PAPER NUMBER

1711

DATE MAILED: 10/18/2002

6

Please find below and/or attached an Office communication concerning this application or proceeding.

TC-6

Office Action Summary

Application No.

09/849,240

Applicant(s)

STUDHOLME ET AL.

Examiner

Patricia Hightower

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2001.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-104 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-104 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1, 3-10, drawn to a composition for producing colored synthetic fiber having improved color strength and dimensional stability comprising a) at least one fiber-forming polyamide b) one thermoplastic polyester c) a colorant system comprising at least one colorant, classified in class 524, subclass 357.
- II. Claims 2 and 11-13, drawn to a composition of claim 1 wherein said colorant system includes a carrier resin for said colorant, classified in class 524, subclass 538.
- III. Claims 14-15, drawn to a composition of claim 1 comprising at least one adjuvant, classified in class 525, subclass 420.
- IV. Claims 16, and 18-29, drawn to a composition for producing synthetic fiber having improved color strength and dimensional stability comprising a) a fiber-forming polyamide b) a thermoplastic polyester, c) a colorant system comprising at least one colorant and d) at least one polymeric additive, classified in class 525, subclass 166.
- V. Claims 17 and 30-32, drawn to the composition of claim 16 having a carrier resin for the colorant, classified in class 525, subclass 167.
- VI. Claims 33-34, drawn to the composition of claim 16 further comprising and adjuvant, classified in class 525, subclass 422.

- VII. Claims 35,37-45 and 51-52, drawn to a process for producing colored synthetic fiber composition with improved color strength and dimensional stability comprising 1) melt blending, a) at least one fiber-forming polyamide b) at least one thermoplastic polyester, c) a colorant system, 2) forming said melt blend into filaments and d) drawing said filaments into fibers, classified in class 264, subclass 211.
- VIII. Claims 36 and 46-48, drawn to a process according to claim 35 wherein the colorant system employed in the step of melt blending includes at least one carrier resin, classified in class 524, subclass 136.
- IX. Claims 49-50, drawn to a process according to claim 35 including a further step of adding one adjuvant, classified in class 525, subclass 432.
- X. Claims 53-54,56-57,59-60,62-63 and 65, drawn to a fiber made from the process of claim 35, classified in class 428, subclass 357.
- XI. Claims 55,58,61,64 and 66, drawn to a fiber made from the process of claim 48, classified in class 428, subclass 357.
- XII. Claims 67-68, drawn to a fiber, classified in class 428, subclass 364.
- XIII. Claims 69-92, drawn to a process for producing colored synthetic fiber composition comprising 1) melt blending a) one fiber-forming polyamide b) a thermoplastic polyester c) a colorant system d) a polymeric compatibilizing additive, 2) forming the melt blend into filaments and drawing said filaments into fibers, classified in class 264, subclass 210.8.
- XIV. Claims 93-98, drawn to a fiber, classified in class 428, subclass 373.

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XV. Claims 99-101, drawn to a woven, knitted or pile textile article made from fibers, classified in class 442, subclass 181.

XVI. Claims 102-104, drawn to a carpet or floor covering made from fibers, classified in class 428, subclass 411.1.

The inventions are distinct, each from the other because:

The inventions of Groups I-XVI are directed to patentably distinct products and methods which are capable of supporting individual patents. The applicants are reminded that they are entitled to claim only one type of product. See M.P.E.P. 808.01 and 806.04.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Note: A telephonic election was not attempted due to the complexity of the restriction requirement and species election.

Species Election

This application contains claims directed to the following patentably distinct species of the claimed invention:

a) colorant selected from inorganic pigments, organic pigments or mixtures of inorganic and organic pigments,

b) fiber-forming polyamide selected from polyamide 6, polyamide 11, polyamide 12, polyamide 6,6, polyamide 6,12 and copolymers, blends and mixtures thereof,

c) thermoplastic polyester selected from poly(ethylene terephthalate), poly(propylene terephthalate), copolymers, blends or mixtures thereof, polyalkylene terephthalates, polyalkylene succinates, polyalkylene adipates, polyhydroxyacids, copolymers and blends or mixtures,

d) carrier resin selected from polyamides, polyesters, sulphonated polyesters, copolymers, blends and mixtures,

e) adjuvant selected from antioxidant, stabilizer, processing aid, antimicrobial, flame-retardant, antiozonant, soil proofing agent, stain proofing agent, antistatic additive, lubricant, melt viscosity enhancer or mixtures,

f) polymeric compatibilizer additive selected from metal sulphonate polyester, alkali metal salts of poly(ethylene terephthalate-co-sulphoisophthalate) and poly(butylenes terephthalate-co-sulphoisophthalate), blends and mixtures thereof .

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is

finally held to be allowable. Currently, Claims 1,2,14,16,33,35,36,69,87 and 70 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia Hightower whose telephone number is (703) 308-2434. The examiner can normally be reached on Monday – Friday from 9:30 A.M. to 6:00 P.M.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on (703) 308-2462. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

P. Hightower:ph
October 17, 2002

A handwritten signature in cursive script, appearing to read "P. Hampton-Hightower".

P. Hampton-Hightower
Primary Examiner
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